

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TARONE M. JONES,

Petitioner,

v. // CIVIL ACTION NO. 1:11CV115
(Judge Keeley)

UNITED STATES OF AMERICA, et al.,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On August 16, 2012, the pro se petitioner, Tarone M. Jones ("Jones"), filed a Motion for Summary Judgment and/or Entry of Default against the defendants in this case, alleging that they had failed to timely file a responsive pleading (dkt. no. 66). In a Report and Recommendation ("R&R") issued on August 23, 2012, (Dkt. No. 70), Magistrate Judge Kaull determined that entry of default or summary judgment against the defendants was unwarranted because they had jointly filed a timely response on August 10, 2012.

Jones objected to the R&R on September 5, 2012, alleging again that "the defendants I. Alarcon, B. Friend, and M. Weaver failed to respond." (Dkt. No. 73 at 1). As the magistrate judge found, however, this is simply not the case. The docket reflects that the defendants jointly filed a responsive pleading on August 10, 2012, (dkt. No. 63), within the permissible time frame established by the Court's July 2, 2012 Order. (Dkt. No. 59). Accordingly, the Court **OVERRULES** the petitioner's objections, **ADOPTS** the magistrate

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judge's R&R (dkt. no. 70), and **DENIES** the petitioner's Motion for Summary Judgment and/or Entry of Default (dkt. no. 66).

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this order to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: October 4, 2012.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE